

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

v.

JOHN DOE SUBSCRIBER ASSIGNED IP  
ADDRESS 98.35.26.207,

Defendant.

Case No. 24-cv-00992-LJC

**ORDER TO SHOW CAUSE WHY  
APPLICATION TO SERVE  
SUBPOENA SHOULD NOT BE  
DENIED**

Re: Dkt. No. 8

The Court has reviewed Plaintiff Strike 3 Holdings, LLC's Application for leave to serve a subpoena seeking information intended to identify the defendant in this case, whom Strike 3 currently knows only by an IP address. ECF No. 8.

The declaration that Strike 3 offers from its general counsel Emilie Kennedy states that the Maxmind database Strike 3 uses to trace IP addresses originally identified Defendant's IP address as located in San Ramon, California. ECF No. 8-1 at 29, ¶¶ 4–5. Kennedy states that the IP address later "continued to trace to this District," and that when Strike 3 checked again before filing its Application, Maxmind identified the IP address as located in Pleasanton, California. *Id.* ¶¶ 6–7. Although both San Ramon and Pleasanton fall within this district, Strike 3 has not addressed potential reasons for that discrepancy in identifying a location or the potential significance of the discrepancy. Strike 3 is ORDERED to file a supplemental declaration addressing that issue, including (but not necessarily limited to) whether the discrepancy calls into question the reliability of: (1) establishing a connection to this district, as is relevant to venue and personal jurisdiction; (2) identifying a specific subscriber as having used the IP address at any given time; and (3) determining whether the same subscriber was assigned the IP address throughout the period of time at issue, i.e., from the first alleged download through anticipated

1 service of the subpoena. Strike 3 should also address whether the subpoena it seeks to serve will  
2 request subscriber data specific to the period of the alleged downloads or if it instead only seeks  
3 the current subscriber.

4 Strike 3's Application also fails to establish that the entity on which it seeks to serve a  
5 subpoena, Comcast Cable Communications (Comcast), is the correct internet service provider  
6 (ISP). None of the declarations that Strike 3 has filed in support of its application mention  
7 Comcast. A screenshot from Maxmind attached to Kennedy's declaration lists "Comcast Cable"  
8 as the ISP associated with Defendant's IP address, ECF No. 8-1 at 32, but Strike 3 has not  
9 addressed whether Maxmind is a reliable source for that information. Strike 3 also has not  
10 addressed whether its previous Maxmind queries (at least one of which identified a different  
11 location) consistently identified Comcast as Defendant's ISP.

12 Strike 3 is therefore ORDERED TO SHOW CAUSE why its Application should not be  
13 denied, by filing one or more supplemental declarations addressing the issues discussed above no  
14 later than April 10, 2024. Strike 3 may also file a supplemental brief by the same deadline if it  
15 believes that would assist the Court.

16 **IT IS SO ORDERED.**

17 Dated: March 27, 2024

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LISA J. CISNEROS  
United States Magistrate Judge